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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 7, 2000

APPLICATION OF

BELL ATLANTIC-VIRGINIA, INC.

CASE NO. PUC960164

For exemption from
physical collocation

ORDER ADOPTING RULES AND
RULING ON EXEMPTION REQUESTS

On October 1, 1999, Rhythms Links, Inc. - Virginia ("Rhythms") filed a motion to dismiss the supplemental application of Bell Atlantic-Virginia, Inc. ("BA-VA") for exemption from physical collocation in the Midlothian central office. On the same day Rhythms filed a petition for declaratory ruling requesting that the State Corporation Commission ("Commission") order BA-VA to provide Rhythms with physical collocation space in the Midlothian central office and that the Commission adopt its proposed collocation rules.

On October 12, 1999, the Staff of the Commission ("Staff") filed a motion requesting that the Commission accept BA-VA's withdrawal of its requests for exemptions from physical collocation at certain central offices, deny BA-VA's request for exemptions for additional central offices, and finalize the

procedural rules governing exemptions from providing physical collocation.

On October 19, 1999, the Commission entered an order permitting BA-VA and other interested parties to respond to the Rhythms' and Staff's motions. Comments were received from BA-VA, Central Telephone Company of Virginia, United Telephone-Southeast, Sprint Communications Company of Virginia, Inc., AT&T Communications of Virginia, Inc., GTE South Incorporated, Starpower Communications, LLC, Focal Communications Corporation of Virginia, Cavalier Telephone, LLC, and Rhythms.

The Commission has reviewed the comments together with the Federal Communications Commission's ("FCC") First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48, In re Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147 (released March 31, 1999) ("Advanced Services Order"). The FCC's new rules provide for additional minimum collocation standards, including the requirement that an incumbent local exchange carrier ("ILEC") make available cageless collocation space in any unused space,¹ and permit state commissions to adopt additional requirements consistent with the Telecommunications Act of 1996 and FCC regulations.²

¹ Advanced Services Order at ¶ 42.

² Advanced Services Order at ¶¶ 8, 22, and 39.

NOW THE COMMISSION, having considered Rhythms' and the Staff's motions and the comments of numerous interested parties, is of the opinion and finds that the proposed rules, with certain language revisions suggested by several of the commenting parties, should be adopted. BA-VA should be required to supplement its remaining exemption requests so that they are consistent with the new rules. Further, BA-VA's withdrawal of its exemption requests for certain central offices is accepted.

Significantly, when space is reserved for more than two years, the rules will require ILECs to provide detailed explanations of why alternative space arrangements would not accommodate future space needs. The Commission has previously determined,³ and continues to believe, that two years is a reasonable reservation period for future space needs; however, the new rules recognize that there may be limited circumstances that justify a reservation period of more than two years. In these unique circumstances, the ILEC will assume the burden of proving that an extended reservation period is indeed necessary.

In light of the adoption of these rules, BA-VA must re-examine its pending requests. For each of the remaining exemption requests, BA-VA must supplement the request with information required by the new rules. In addition, with regard

³ Petition of AT&T Communications of Virginia, Inc., For arbitration of unresolved issues from interconnection negotiations with GTE South, Case No. PUC960117, 1996 S.C.C. Ann. Rep't 236, 237 (Final Order, Dec. 11, 1996).

to the Midlothian central office, BA-VA should include a detailed explanation of the specific universal service obligations for which it is reserving space.

BA-VA's withdrawal of its exemption requests for the Herndon, Lewinsville, Centreville, Crystal City, Fox Mill Road, Sterling, and Lake Fairfax central offices leaves only four remaining requests for exemption: Ashburn, Midlothian, Pentagon, and Dulles Corner. We will accept BA-VA's withdrawal of its exemption request for the Lake Fairfax wire center; however, the Commission takes no position on whether BA-VA is obligated to provide collocation space at this site.

By this Order, we deny Rhythms' October 1, 1999, motion to dismiss, and deny in part and grant in part both Rhythms' October 1, 1999, petition for declaratory ruling, and Staff's October 12, 1999, motion.

Accordingly, IT IS ORDERED THAT:

(1) The procedural rules governing exemption from providing physical collocation pursuant to § 251(c) of the Telecommunications Act of 1996, with modifications as shown in Attachment A, shall be adopted and published in the Virginia Register.

(2) On or before February 8, 2000, BA-VA shall supplement its remaining requests for exemption consistent with the rules

adopted herein, or these requests will be denied without prejudice, subject to refiling.

(3) BA-VA's withdrawal of its requested exemptions for the Herndon, Lewinsville, Centreville, Crystal City, Fox Mill Road, Sterling, and Lake Fairfax central offices is accepted.

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20 VAC 5-400-200. Procedural rules governing exemption from providing physical collocation pursuant to § 251(c)(6) of the Telecommunications Act of 1996.

A. 1. The incumbent local exchange carrier ("ILEC") shall submit an original and 15 copies of its application requesting exemption to provide physical collocation with the Clerk of the State Corporation Commission ("commission"), c/o Document Control Center, 1300 East Main Street, P.O. Box 2118, Richmond, Virginia 23218. Three copies of the floor plan required in subdivision B 2 shall be provided to the commission's Division of Communications.

2. The ILEC shall file an exemption request only when no physical collocation space is available at the ILEC's premise.

3. The ILEC shall file an application requesting exemption to provide physical collocation at any premise within ~~[15-30]~~ days of a denial to a carrier of space as described in subdivision 2 of this subsection. If the exhaustion of space is determined outside of a denial to a carrier, the ILEC shall file its application within ~~[30-45]~~ days of such a determination.

4. A carrier that has been denied an amount of space or a specific collocation arrangement in a premise where some

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physical collocation space or alternative arrangements are still available may initiate a complaint with the commission in accordance with its Rules of Practice and Procedure (5 VAC 5-10-10 et seq.).

5. The ILEC shall furnish ~~[written]~~ notice of any request for exemption of physical collocation to all certificated local exchange carriers and interexchange carriers in Virginia. The ILEC shall provide a copy of the application to interested parties upon request. The ILEC shall also ~~[provide a copy of make available]~~ any proprietary information provided under subsection B of this section to interested parties in a timely manner and pursuant to a confidentiality agreement.

6. The ILEC shall provide a tour of any premise to a carrier that has been denied collocation space or arrangement. In addition, the ILEC shall schedule tours of a premise for interested parties and commission staff once an exemption request has been filed with the commission. These tours shall be provided in a timely manner; however, the ILEC may coordinate any tours between the parties in order to minimize any disruption at the premise.

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7. Any ILEC which has been granted an exemption to provide physical collocation at any premise shall file a status report yearly from the date the exemption was granted. The report shall identify any changes to the previously provided documentation required in subsection B of this section. [An ILEC shall notify the commission of any material changes that will make space available at an exempt premise within 30 days of a determination that the change will occur.]

B. 1. Any request submitted by an ILEC for an exemption from physical collocation shall specifically identify the premise (including exchange, wire center, CLLI code, brief description, V&H coordinates, and address) where the exemption is requested[, the expected duration of the exemption,] and the criteria for which the request is being made, i.e., space limitation and/or technical reason.

2. The ILEC shall submit current clearly labeled floor plans/diagrams of the premise of at least a 1/8"=1' scale which, at a minimum, identifies the following:

- a. Equipment in use and its function, i.e., mechanical, power, switching, transmission, etc.
- b. Equipment being phased out, not in use and/or stored.

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c. Space reserved by the ILEC for future use as of the preparation date of the floor plan/diagram.

(1) Within six months (imminent equipment placement).

(2) After six months but within two years.

(3) After two years.

d. Physical collocation space.

e. Administrative and other non-equipment space.

3. For any equipment being phased out, not in use and/or stored, identified in subdivision 2 b of this subsection, the ILEC shall provide the expected retirement and removal date or dates.

4. For any space reserved in subdivision 2 c of this subsection, the ILEC shall include the [specific] use [or uses] for which it is planned. In addition, for space reserved for more than two years, the ILEC shall specify the [timeframe timeframes] reserved[and provide a detailed explanation of why alternative space (i.e. building additions, expected retirements, rearrangements) would not accommodate future space needs].

5. For collocation space identified in subdivision 2 d of this subsection, the ILEC shall identify the amount of space

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utilized by each available type of collocation arrangement. In addition, the ILEC shall identify the amount of space utilized and/or reserved by each carrier.

6. The ILEC shall submit a detailed description and analysis of any equipment rearrangements, administrative space relocation and/or building expansion plans, including timelines of each project for the premise in which the exemption is requested.

7. The ILEC shall provide a detailed description of any efforts or plans to avoid space exhaustion in the premise for which the exemption is requested. Such description should include the proposed timeline of any such plans and estimation of the duration of the exemption.

8. To the extent that an ILEC claims that space is unavailable due to security or access constraints, an explanation of any efforts the ILEC has undertaken to overcome such constraints shall be submitted.